



State of Arizona
Department of Education
Office of Superintendent John Huppenthal

Date: January 2, 2015

To: Dr. H.T. Sanchez, Superintendent, Tucson Unified School District

From: John Huppenthal, Superintendent of Public Instruction

Subject: Notice of Noncompliance

This Notice of Noncompliance is issued pursuant to A.R.S. § 15-112 and the Settlement Agreement reached *In the Matter of Tucson Unified School District No. 1* (No. 11F-002-ADE). For the reasons described below, there is reasonable cause to believe that Tucson Unified School District (TUSD) is in violation of the referenced Settlement Agreement, in that it has one or more courses or classes that violate A.R.S. § 15-112(A)(1), (2) and (4). Furthermore, TUSD has failed to provide complete information to ADE regarding its revision to its curricula for culturally relevant English, United States History and United States Government classes. Substantial portions of the information that TUSD has provided are incomplete and internally inconsistent. Notably, while TUSD's original violations related to classes taught from the Mexican American perspective, it now appears that some TUSD classes taught from the African American perspective also violate the law. If TUSD does not act to correct the violations described below by March 4, 2015, the Superintendent of Public Instruction, in consultation with the Arizona Department of Education (ADE or Department), will determine whether to withhold ten per cent of the monthly apportionment of state aid that would otherwise be due to TUSD until such violations are corrected.

Background

On December 27, 2011, Administrative Law Judge (ALJ) Lewis D. Kowal issued a decision in matter No. 11F-002-ADE concluding that TUSD's Mexican American Studies (MAS) program "had one or more courses or classes that violate[d]" A.R.S. § 15-112. Before the Department took action to withhold TUSD's state aid, pursuant to A.R.S. § 15-112(B), TUSD adopted a resolution addressing its violations of that statute. TUSD further agreed to eliminate MAS curricula in elementary and high school classes. Finally, it agreed to implement revised English language arts and social studies curricula that meet state standards, address the needs of its diverse student body and that would not violate state law. (See TUSD Board Resolution dated January 10, 2012; TUSD letter to ADE

dated January 23, 2012; ADE letter to TUSD dated January 31, 2012 (jointly referred to as the Settlement Agreement).) More specifically, TUSD agreed to make its revised Social Studies curriculum available to the Department during the 2012-13 school year on a schedule to be determined jointly by TUSD and ADE. However, TUSD did not establish such a timeline and did not submit any curricula to the Department for review until May 2013.

ADE-TUSD Communication Regarding Compliance

TUSD failed to comply with provisions of the Settlement Agreement that required work to begin in the 2012-13 school year to revise its English language arts, United States History and United States Government classes to comply with state law and meet the needs of its Hispanic students. It did not provide any curricula for ADE to review until May 2013.

Since that time, ADE has engaged in an extensive dialogue with TUSD regarding its compliance with state law and the Settlement Agreement, as well as use of state standards for development and implementation of curricula. ADE has, on multiple occasions, requested that TUSD provide it with curricula, curriculum maps, lesson plans, instructional materials, descriptions of how materials are to be used in class, student assignments, quizzes, assessments, bell schedules for the culturally relevant classes, teacher assignments, and student enrollment information. (See November 1, 2013 ADE letter to TUSD; November 24, 2013 ADE email to TUSD; February 5, 2014 ADE letter to TUSD; March 5, 2014 ADE letter to TUSD; September 30, 2014 ADE email to TUSD; November 20, 2014 ADE letter to TUSD.) ADE has visited culturally relevant classes for purposes of monitoring compliance with A.R.S. § 15-112 on several occasions. (Monitoring visits occurred on April 9, 2012, October 1, 2013, September 3, 2014, and December 1, 2014.) ADE has also offered to assist with professional development for teachers and administrators, at no cost to TUSD. (See September 19, 2014 ADE letter to TUSD; December 15, 2014 ADE letter to TUSD.)

TUSD has failed to respond fully to these requests for information, concerns expressed by ADE, and offers of assistance. Specifically, although TUSD has submitted drafts of curricula, these curricula have been deficient. Furthermore, many drafts of curricula are written in a fashion that would make them incomprehensible to teachers new to these classes or to parents of students who want to understand what their children are learning. ADE has described these deficiencies in detail, and has offered TUSD assistance in developing appropriate, culturally relevant curricula that meet state standards and are suitably rigorous for the stated grade. (See June 10, 2013 ADE Initial Observations and Feedback; February 5, 2014 ADE letter to TUSD; March 5, 2014 ADE letter to TUSD.) By way of example, TUSD's original submission of curricula for ADE to review requested ADE review a substantial number of curricula on very short notice. In response, ADE devoted substantial staff resources to carefully review and detail its concerns about academic rigor, adherence to state standards and compliance with A.R.S. § 15-112.

However, TUSD's board approved the curricula, substantially in the original form. (See June 10, 2013 ADE Initial Observations and Feedback; July 12, 2013 ADE letter to TUSD.)

TUSD's submission of materials has been equally problematic. It has submitted some lists of materials, but the lists are not in any particular order, are not consistent with the curricula or lesson plans that TUSD has submitted, and do not provide any information to teachers or parents regarding how particular materials will be used or for what pedagogical purposes. Furthermore, the lists of materials include many materials that were part of the program that the ALJ held violated A.R.S. § 15-112. TUSD did not provide actual classroom materials, such as student assignments and assessments, and teacher lesson plans, until December of 2014. TUSD's failure to provide such information meant that ADE was unable to determine whether teachers are teaching to the curricula that TUSD has identified or teaching some other curricula in violation of state law.

ADE has also found that TUSD's bell schedules and teacher assignment schedules are not necessarily consistent with each other. When ADE has conducted unannounced monitoring visits, it has found further inconsistencies among the schedules provided to it and teacher assignments.

Violation of A.R.S. § 15-112

TUSD's failure to respond completely to ADE's requests for information and materials raises many issues. First, it reveals a program in disarray, with insufficient support for teachers, inadequate teaching to students and little transparency for parents and community members. More importantly, the materials that TUSD has submitted indicate that several teachers appear to be teaching content that violates A.R.S. § 15-112, in violation of both the Settlement Agreement and state law. I reference here several examples of problematic content, along with a citation to the portion of the statute they appear to violate. This list is by way of example; other content also appears to violate state law.

Cholla Magnet, US History Culturally Relevant Mexican American Perspective (Corey Jones)

A. Rage Against the Machine "Take the Power Back" (A.R.S. § 15-112(A)(1))

Yeah, the movement's in motion with mass militant poetry...

So called facts are fraud; They want us to allege and pledge; And bow down to their God; Lost in culture, the culture lost; Spun our minds and through time; Ignorance has taken over; Yo we gotta take

the power back!; Bam! Here's the plan; Mother**** Uncle Sam; Step back, I know who I am; Raise up your ear, I'll drop the style and clear; It's the beats and the lyrics they fear; The rage is relentless; We need a movement with quickness; You are the witness of change; And to counteract; We gotta take the power back

The teacher stands in front of the class; But the lesson plan he can't recall; The student's eyes don't perceive the lies; Bouncing off every F***** wall; His composure is well kept; I guess he fears playing the fool; The complacent students sit and listen to some of that Bull**** that he learned in school

- B. From a handout entitled "Black and White pp. 19-33:" Why was American slavery the most brutal in history? (A.R.S. § 15-112(A)(2))
- C. List of CRC: Concepts: Hegemony, Social Reproduction Theory, Theory of Surplus Equality, Schooled by Social Class, Cultural Capital, Subordinate Group, Dominate Group, Colonization, Theory of Inequality of Language, Racial Justice Theory, Resistance Theory, Race, Racism, Strategic Conjuncture, Oppression, Fatalism, Privilege, Subtractive Schooling, Agency, Transformation, Resistance Dystopian Parody (A.R.S. § 15-112(A)(2))

Cholla Magnet, US History Culturally Relevant Mexican American Perspective (Marie Pina)

- A. For your final analysis, write about 3 ideas in this document [Declaration of Independence] that are lies, hypocrisy, and break the social contract between new democracy these colonial leaders and the society they are representing. (A.R.S. § 15-112(A)(2))
- B. Sample prompt for an essay which "offers your stance on the impact that European colonization had on the Natives of 'The New World.'" Thesis: European colonization of "The New World" has a horrifying and negative effect on the Natives that had been there for thousands of years. (A.R.S. § 15-112(A)(2))

Cholla Magnet, English from Culturally Relevant African American Perspective (Andrew Walanski)

An Introduction to Hip Hop Presented by Master Teacher, KRS-One from <http://www.krs-one.com/temple-of-hip-hop/>

Hiphop Kulture = or, Hip Hop's culture, is the name of our unique community; it is the name of our tribe. Hiphop Kulture is the manifested character, patterns, beliefs, sciences and arts of OUR collective consciousness; it is our reality and mental landscape. Hiphop Kulture is an international community of specialize urban people.

...Hip Hop is defined as the artistic response to oppression.

Those using the English language to describe Hip Hop while misspelling Hiphop and or Hip Hop as hip-hop are not only grammatically incorrect; they also undermine the importance of what Hiphop really is to Hiphoppas. They participate in Hip Hop's enslavement by reducing our culture and way of life to a music genre and product to be bought and sold. Again, Hiphop is not a product to be bought and sold; it is the inalienable right of all Hiphoppas. Hip Hop is OUR name!¹ (A.R.S. § 15-112(A)(4))

Pueblo Magnet School, English from Culturally Relevant Mexican American Perspective, Junior and Senior class (Tiffany Mendibles)

Classroom rules include Lak'Ech and the four Texcatlipocas. (A.R.S. § 15-112(A)(4))

Tucson Magnet High School, US History Culturally Relevant Mexican American Perspective (Alexandro Escamilla)

- A. Classroom rules include a requirement that students stand to recite Lak'Ech and the four Texcatlipocas every day, and that all students memorize and understand the concepts contained within them.
- B. Syllabus for United States History class includes substantial Mexican history, stating "In this class we will study the history and culture of Chicano, Mexicano and indigenous people throughout the United States and Mexico. This class is intended to get students to become critically conscious about the society that we live in and the history that has made it what it is today." (A.R.S. § 15-112(A)(4))

Conclusion

The Superintendent, assisted by ADE, concludes that TUSD is not in compliance with the Settlement Agreement or A.R.S. § 15-112. It appears to have one or more classes that "(1) promote the overthrow of the United States government [;] (2) promote resentment

¹ Notably, this curriculum appears to be taken directly from material for a college classroom.

toward a race or class of people [; or] (4) advocate ethnic solidarity instead of the treatment of pupils as individuals.” A.R.S. § 15-112. The Superintendent is thus prepared to reinstate the Order dated January 6, 2012, adopting the ALJ’s order of December 27, 2011, requiring ADE to withhold ten percent of TUSD’s state aid if TUSD does not come into compliance with state law and the Settlement Agreement by March 4, 2015.

In addition to the above violations, ADE is concerned that TUSD is not in compliance with state statutes and board policies that require board adoption of curriculum and materials after proper notice to the public. (*See* A.R.S. §§ 15-341(A)(1), (2); 15-721; 15-722 and TUSD Board Policy IJJ.) Finally, it appears that at least some classes at Cholla Magnet School are in violation of A.R.S. § 15-506, which requires that time be set aside each day for those who wish to recite the Pledge of Allegiance. (*See* Bell Work, United States History African American Perspective, Carlos Wong.)

TUSD should demonstrate compliance by taking the following actions:

- A. Properly adopting curricula and materials that meet state standards and do not violate state law,
- B. Removing objectionable material from the curriculum,
- C. Showing ADE that all teachers are teaching properly approved curricula.
(Attached as exhibit A to this letter is a list of information that ADE will accept as evidence of compliance.)

Please provide all evidence of compliance to Carol Lippert, in accordance with Exhibit A.

Cc: Dr. Steven Holmes, Assistant Superintendent, Tucson Unified School District
J. Elliott Hibbs, Deputy Superintendent, Arizona Department of Education
Michael Bradley, Chief of Staff, Arizona Department of Education
Dr. Jennifer Johnson, Deputy Superintendent, Arizona Department of Education
Carol Lippert, Associate Superintendent, Arizona Department of Education
Sarah Galetti, Deputy Associate Superintendent, Arizona Department of Education
Leslie Cooper, Assistant Attorney General, Arizona Office of the Attorney General
Tucson Unified School District Governing Board Members